

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JANAH DANNELL ORTIZ,

Petitioner,

v.

FRESNO FEDERAL COURTHOUSE,

Respondent.

Case No. 1:25-cv-00155-SKO

ORDER DIRECTING CLERK OF COURT
TO ASSIGN DISTRICT JUDGE

FINDINGS AND RECOMMENDATION TO
DISMISS PETITION FOR WRIT OF
MANDAMUS

(21-DAY OBJECTION DEADLINE)

On February 6, 2025, Petitioner filed a petition for writ of mandamus pursuant to 28 U.S.C. § 1361 in this Court. Upon review of the petition, the Court finds that mandamus relief is unavailable. Therefore, the Court will recommend the petition be DISMISSED WITH PREJUDICE.

DISCUSSION

I. Preliminary Screening of Petition

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally “frivolous, malicious,” or that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. §

1 1915A(b)(1), (2). “Notwithstanding any filing fee, or any portion thereof, that may have been
 2 paid, the court shall dismiss the case at any time if the court determines that ... the action or
 3 appeal ... fails to state a claim upon which relief may be granted.” 28 U.S.C. §
 4 1915(e)(2)(B)(ii).

5 II. Mandamus Relief

6 The All Writs Act, codified at 28 U.S.C. § 1651(a), provides that “[t]he Supreme Court
 7 and all courts established by Act of Congress may issue all writs necessary or appropriate in aid
 8 of their respective jurisdictions and agreeable to the usages and principles of law.” The federal
 9 mandamus statute set forth at 28 U.S.C. § 1361 provides: “The district courts shall have
 10 original jurisdiction of any action in the nature of mandamus to compel an officer or employee
 11 of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. §
 12 1361.

13 However, mandamus is an extraordinary remedy. Patel v. Reno, 134 F.3d 929, 931 (9th
 14 Cir. 1998). Mandamus relief is only available to compel an officer of the United States to
 15 perform a duty if (1) the petitioner's claim is clear and certain; (2) the duty of the officer “is
 16 ministerial and so plainly prescribed as to be free from doubt,” Tagupa v. East-West Center,
 17 Inc., 642 F.2d 1127, 1129 (9th Cir.1981) (quoting Jarrett v. Resor, 426 F.2d 213, 216 (9th
 18 Cir.1970)); and (3) no other adequate remedy is available. Piledrivers' Local Union No. 2375 v.
 19 Smith, 695 F.2d 390, 392 (9th Cir.1982).

20 Petitioner’s claims are very difficult to decipher. He believes he is the subject of a
 21 conspiracy between the Fresno County Police Department, “the population,” “Congress
 22 members,” and judges. (Doc. 1 at 1-2, 5.) He claims Judge Wilson has taken retaliatory action
 23 against him because Judge Wilson does not want him sleeping with any women. (Doc. 1 at 3.)
 24 He also claims a “group of people in Fresno County have tried to sell [his] person to CDCR
 25 personnel.” (Doc. 1 at 5.) These claims are frivolous.

26 Petitioner also states he is in custody at the Fresno County Jail. He claims Judge Wilson
 27 has denied his request to be released on bail with ankle monitor supervision. Petitioner does not
 28 state why he is in custody, but it is clear mandamus relief is unavailable because the subject of

his complaint, Judge Wilson, is not an officer, employee or agency of the United States. Title 28 U.S.C. § 1651(a) does not invest a federal district court with the power to compel performance of a state court, judicial officer, or another state official's duties under any circumstances. Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89, 106 (1984) (11th Amendment prohibits federal district court from ordering state officials to conform their conduct to state law). Thus, a petition for mandamus to compel a state official to take or refrain from some action is frivolous as a matter of law. Demos v. U.S. District Court, 925 F.2d 1160, 1161–72 (9th Cir.1991); Robinson v. California Bd. of Prison Terms, 997 F.Supp. 1303, 1308 (C.D.Cal.1998) (federal courts are without power to issue writs of mandamus to direct state agencies in the performance of their duties); Dunlap v. Corbin, 532 F.Supp. 183, 187 (D.Ariz.1981) (plaintiff sought order from federal court directing state court to provide speedy trial), *aff'd without opinion*, 673 F.2d 1337 (9th Cir.1982).

III. Younger Abstention

To the extent Petitioner seeks federal intervention in his ongoing state case, relief is barred under Younger v. Harris, 401 U.S. 37 (1971). Under principles of comity and federalism, a federal court should not interfere with ongoing state criminal proceedings by granting injunctive or declaratory relief except under special circumstances. *Id.* at 43-54. Younger abstention is required when: (1) state proceedings, judicial in nature, are pending; (2) the state proceedings involve important state interests; and (3) the state proceedings afford adequate opportunity to raise the constitutional issue. Middlesex County Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432 (1982); Dubinka v. Judges of the Superior Court, 23 F.3d 218, 223 (9th Cir. 1994).

Here, the state proceedings are clearly ongoing, given Petitioner is in custody at the Fresno County Jail subject to ongoing criminal process in the Fresno County Superior Court. In addition, California has an important interest in passing upon and correcting violations of a defendant's rights. Roberts v. Dicarlo, 296 F.Supp.2d 1182, 1185 (C.D. Cal. 2002) (citing Koerner v. Grigas, 328 F.3d 1039, 1046 (9th Cir. 2003)). Finally, the Fresno County Superior Court, California Court of Appeal, and the California Supreme Court are adequate forums for

Petitioner to seek relief for his claims. Roberts, 296 F.Supp.2d at 1185. Therefore, the Court should abstain from interfering in state proceedings pursuant to Younger.

IV. Civil Rights

To the extent Petitioner claims a violation of his civil rights, the proper action is not a petition for writ of mandamus. Petitioner must seek relief for violations of his civil rights through a civil rights action pursuant to 42 U.S.C. § 1983. In Nettles v. Grounds, 830 F.3d 922, 936 (9th Cir. 2016), the Ninth Circuit held that a district court has the discretion to construe a habeas petition as a civil rights action under § 1983. Recharacterization is appropriate only if it is “amenable to conversion on its face, meaning that it names the correct defendants and seeks the correct relief,” and only after the petitioner is warned of the consequences of conversion and is provided an opportunity to withdraw or amend the petition. Id. Here, the Court does not find recharacterization to be appropriate. Petitioner does not name the proper defendants, and the claims are not amenable to conversion on their face. Accordingly, the Court should not exercise its discretion to recharacterize the action.

Therefore, the Court will recommend that the action be dismissed and the Clerk of Court be directed to send Petitioner a blank civil rights complaint.

ORDER

IT IS HEREBY ORDERED that the Clerk of Court is DIRECTED to assign a district judge to the case.

RECOMMENDATION

For the foregoing reasons, the Court RECOMMENDS that this action be DISMISSED WITH PREJUDICE and the Clerk of Court be directed to provide Petitioner with blank civil rights forms.

This Findings and Recommendation is submitted to the United States District Court Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of California. Within twenty-one (21) days after being served with a copy of this Findings and Recommendation, a party may file written objections with the Court and serve a copy on all

1 parties. Id. The document should be captioned, “Objections to Magistrate Judge’s Findings and
2 Recommendation” and shall not exceed fifteen (15) pages, except by leave of court with good
3 cause shown. The Court will not consider exhibits attached to the Objections. To the extent a
4 party wishes to refer to any exhibit(s), the party should reference the exhibit in the record by its
5 CM/ECF document and page number, when possible, or otherwise reference the exhibit with
6 specificity. Any pages filed in excess of the fifteen (15) page limitation may be disregarded by
7 the District Judge when reviewing these Findings and Recommendations pursuant to 28 U.S.C.
8 § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time
9 may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th
10 Cir. 2014). This recommendation is not an order that is immediately appealable to the Ninth
11 Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of
12 Appellate Procedure, should not be filed until entry of the District Court's judgment.

13
14 IT IS SO ORDERED.

15 Dated: February 10, 2025

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE